

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hena Zaman	Team: Team # 2	CCRB Case #: 200411813	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/28/2004 4:00 PM	Location of Incident: § 87(2)(b) [REDACTED]		Precinct: 71	18 Mo. SOL 5/28/2006	EO SOL 5/28/2006
Date/Time CV Reported Sun, 11/28/2004 4:40 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 11/28/2004 4:40 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Berkley Vantull	01686	934156	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Lowez Walker	23357	934251	071 PCT
2. POM Jean Rodriguez	07543	934123	071 PCT
3. POM Salvatore Oliveri	22331	933641	071 PCT
4. POM James Dawes	18390	933730	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Berkley Vantull	Abuse: Police Officer Berkley Vantull refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]

Synopsis

On November 28, 2004, § 87(2)(b) called the CCRB and filed a complaint on the call processing system about an incident that occurred on the same day. § 87(2)(b) stated that her § 87(2)(b) son, § 87(2)(b) called her at approximately 4:00p.m. and informed her that officers issued him a summons for § 87(2)(a) 160.50 on § 87(2)(b) in Brooklyn. When § 87(2)(b) arrived at the scene, she approached a group of five officers and asked them what was going on. The officers did not answer § 87(2)(b) and she proceeded to take their names down. § 87(2)(b) obtained the names and badge numbers of PO Rodriguez, PO Oliveri, PO Walker and PO Dawes but was only able to obtain PO Vantull's name and not his shield number. § 87(2)(b) explained that PO Vantull had a mourning band around his badge and when she asked him for his shield number, PO Vantull replied, "In what world do you have that right?"

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

This case was reassigned from Investigator Abigail Braden to Investigator Hena Zaman on February 25, 2005.

Summary of Complaint

During a telephone conversation with the CCRB on December 10, 2004, the mediation and investigation process were thoroughly explained to § 87(2)(b). § 87(2)(b) declined mediation and wanted her complaint to be investigated. § 87(2)(b) § 87(2)(b), was interviewed at the CCRB on December 13, 2004 (Enclosure 5a-c). § 87(2)(b) did not recall the exact date of her incident with the police officers, but said it was "two Sundays ago" from her CCRB interview [this would have been November 28, 2004]. It happened at 4PM, on § 87(2)(b) between § 87(2)(b) and § 87(2)(b) in Brooklyn.

§ 87(2)(b) said that she was driving down her street, § 87(2)(b) and called her § 87(2)(b) son § 87(2)(b) and asked him to come downstairs so he could put some stuff in the car. § 87(2)(b) came outside, put the stuff in the car, and then told § 87(2)(b) that he was going to the store to get a sandwich. The store § 87(2)(b), is just across the street from their house. § 87(2)(b) said she had only driven about "half a block" before she got a call on her cell phone from § 87(2)(b). § 87(2)(b) said that he had just been stopped by a police officer and given a summons for § 87(2)(a) 160.50. § 87(2)(b) told her that he had been smoking a cigarette outside the store while he was waiting for his sandwich to be made. § 87(2)(b) pulled her car around to go to the store.

At the store, § 87(2)(b) got out of her car and observed five to six officers standing there with 6-7 civilians, all males in their late teens or thereabouts. § 87(2)(b) said she recognized some of these people as being from the neighborhood, but she didn't know if they were friends of her son's, or if her son had been hanging out with them. § 87(2)(b) did not know any of their names. § 87(2)(b) said there was nothing going on when she got to the scene, although she admitted that her son has a "hot head," and she doesn't know what happened before she got there. § 87(2)(b) approached the group of officers and asked all of them in general, "What's going on here?" and "Which one of you stopped my son and took his ID?" None of the officers would answer her. § 87(2)(b) said, "There's five of you here and none of you know how to say anything?" When the officers still didn't answer her, § 87(2)(b) sent § 87(2)(b) into the store to get a piece of paper and a pen; § 87(2)(b) had been trying to talk to the officers for about a minute at this point. At the time she asked what was going on, PO "Vantull" was writing a summons, but § 87(2)(b) didn't know what the other officers were doing. When asked, § 87(2)(b) denied that she got loud or got in the officers' faces when she was questioning them.

When § 87(2)(b) returned, § 87(2)(b) wrote down all the officers' names and badge numbers. However, § 87(2)(b) said that one officer, PO Vantull, had a black "memorial band" around his shield, covering

the number. It was not covering his name, so § 87(2)(b) obtained the name “Vantull” by reading it off his badge. § 87(2)(b) said that the other officers also had this black band on their shields, but these bands were not covering any of the other officers’ names or shield numbers. § 87(2)(b) said to PO Vantull, “Excuse me, I can’t see your badge number, I want to get your number,” but PO Vantull kept ignoring her. § 87(2)(b) finally said, “I have a right to get your badge number,” to which PO Vantull replied, “On what planet do you feel that you have the right to get my badge number?” PO Vantull then never provided his shield number to her, nor did he move the band so she could see it. When asked, § 87(2)(b) said the other officers were standing nearby during this conversation, and it was possible that they heard it. As for the civilians, § 87(2)(b) said that everyone who was getting a summons was in the same general area, and they could have heard it also. § 87(2)(b) said at one point § 87(2)(b) said to PO Vantull, “Why are you disrespecting my mother, why are you talking to my mother like that?” § 87(2)(b) was “a little loud” when he said this; § 87(2)(b) presumed he was upset about getting the summons. § 87(2)(b) told § 87(2)(b) to drop it, that she knew how to take care of the situation.

§ 87(2)(b) then went into § 87(2)(b) to get a receipt for her son’s sandwich (for him to take to court for the summons), then went home. § 87(2)(b) said she called the 71st Precinct when she got home, and they provided her with the CCRB number. § 87(2)(b) reiterated that her son could do what he wants about his summons, she’s only concerned with her part of the complaint. § 87(2)(b) believed that her son’s summons was written by PO “James,” but she was unsure.

§ 87(2)(b) said her main complaint is about PO Vantull’s “demeanor and attitude.” § 87(2)(b) § 87(2)(b). She said, “I’d have a real severe problem if I went around talking to the customers like that . . . I can’t tell them on what planet do you have the right to get my number, that’s not the way to do things.” § 87(2)(b) said her complaint was “nonsense,” but said she was concerned because, she said, “It could have been worse if someone was trying to hurt my son, not being able to identify officers.”

Attempts to Locate & Interview Additional Witnesses

§ 87(2)(b) In an effort to interview § 87(2)(b) phone calls were placed at his home telephone number on March 10, 2005, April 29, 2005 and May 3, 2005. Messages were left on the answering machine and to date, a return phone call was never received. On January 29, 2005 and March 11, 2005, contact letters were sent to § 87(2)(b)s home address. § 87(2)(b) did not respond to the letters and the letters were not returned to the sender.

§ 87(2)(b) Metrosearch confirmed that § 87(2)(b) resided at the address obtained through the summons issued to him on November 28, 2004. On March 11, 2005 and May 3, 2005, telephone calls were placed at the two telephone numbers obtained from metrosearch and there was no answering machine available to leave a message. On April 29, 2005, a message was left with § 87(2)(b) sister, § 87(2)(b) and to date, a return phone call was never received. On January 26, 2005 and March 11, 2005, contact letters were sent to § 87(2)(b) home address. § 87(2)(b) did not respond to the letters and the letters were not returned to the sender.

Results of Investigation

Police Officer Statements

PO Berkley Vantull (Enclosure 7a-d)

PO Berkley Vantull was interviewed at the CCRB on March 21, 2005 and on April 4, 2005. Prior to going on the record on April 4, 2005, PO Vantull listened to his initial interview tape from March 21, 2005. § 87(2)(b)

The following is PO Vantull’s combined statement from both of his interviews at the CCRB.

On November 28, 2004, PO Vantull was assigned to a foot post with PO Oliveri, was in uniform and worked from 1:00PM to 9:35PM. Entries in memo book received through IAB- "1540 hours 85 non emer post 1 and 7. 1607 hours male stopped 10-19/96x1/98." Entries in memo book received from PO Vantull on 3/21/05- "1540 85 non emer assisted 1and 7. 1607 hours 98 on Post."

PO Vantull stated that on November 28, 2005, PO Dawes and PO Walker (post 1 and 7) notified him to report to the corner of the "bodega" located at § 87(2)(b) and § 87(2)(b) in the vicinity of § 87(2)(b). Upon his arrival he saw PO Dawes and PO Walker issuing summonses to two male individuals. PO Dawes and PO Walker explained to PO Vantull and PO Oliveri that they stopped the individuals § 87(2)(a) 160.50 and because they did not comply with their warnings, they were issuing them summonses. PO Vantull stated he saw three other males at the same corner and asked them to relocate because he did not want them to be involved in the situation that the other two officers were trying to deal with. The three males (one of which PO Vantull issued a summons to § 87(2)(b) 5'11", 160lbs, Black) did not move and all three males began to curse at the officers saying, "fuck this, fuck that, homeless rookies." PO Vantull then asked the three males for their ID in order to issue them a summons for § 87(2)(a) 160.50 in very high foot traffic block because there are two educational facilities in the vicinity.

During the time PO Vantull was issuing the summons to § 87(2)(b) a woman (braids, 5'6", 180lbs, § 87(2)(b), black) approached the officers and asked, "Why are they being stopped and being issued summonses?" She then began to curse and said that the officers were "harassing" the male individuals. PO Walker then instructed the female to "step back" and that he would explain to her what was happening. At this point, one of the males, "possibly her son", told the officers not to talk to his mother like that. The female stated, "You don't know who you are fucking with, § 87(2)(b) (did not mention where she was employed) § 87(2)(b) I want your badge numbers." While PO Vantull was still preparing the summons, he pointed to his badge with his right index finger while § 87(2)(b) was standing a "foot" away from him and did not want to verbally respond to her because he felt that if he did say something, it would "escalate the situation." PO Vantull stated that he noticed that the female wrote "something" down but did not see what she wrote down and if she recorded everyone's badge numbers because there were four to five other officers there. PO Vantull did not see or hear the other officers give her their badge number. PO Vantull stated the female did not verbally interact with any of the other officers except when PO Walker instructed her to step back. PO Vantull then issued a summons to § 87(2)(b) for § 87(2)(a) 160.50 and then resumed patrol.

When asked how PO Vantull had his badge displayed, he stated that on the date of the incident, his badge was placed on the left side of his authorized NYPD jacket. PO Vantull stated that his mourning band is usually placed behind the shield, where the badge number and name are visible and on the date of the incident, it was placed exactly like that. PO Vantull stated that no other object obstructed the view of the badge. PO Vantull stated that he believed that the female obtained his shield number but he did not verbally confirm it. PO Vantull stated that the female only asked for his name and badge number once.

When PO Vantull was asked of his understanding regarding Patrol Guide procedure 203-09, he stated that was not "too sure" of the procedure and was not "too sure" of his obligation to provide his name and badge number to the public. PO Vantull again stated that the reason why he did not verbally respond to the female was because she was "disrespectful" and "he knew if he responded, it would just further escalate the situation." PO Vantull stated that by pointing to his badge, he reasonably believed that she obtained his information. When asked if PO Vantull told the female, "In what world do you have that right" (to obtain his information), he stated that he never said such a thing. He also stated that he did not hear any other officer state anything like that either.

PO Vantull then issued a summons to § 87(2)(b) (one of the five males) § 87(2)(a) 160.50 PO Vantull was asked why he did not record the summons into his memo book and he stated that he entered it at 1800 hours because he initially forgot to record it immediately after the incident.

On April 4, 2005, PO Vantull reviewed both copies of his memo book entries (one obtained through record requests and the other which PO Vantull provided to the CCRB on the date of the initial interview on March 21, 2005) from November 28, 2004. PO Vantull reviewed the entries and confirmed that both copies were written in his handwriting. At first PO Vantull stated that he did not recall if he was carrying another memo book on the date of the incident but then stated that he does not carry two memo books at one time. PO Vantull stated that he does not remember who made the copy of his memo book when he issued it to his ICO. PO Vantull stated that he is not allowed to maintain more than one memo book simultaneously but was not "100% sure" if he wrote the entries in question elsewhere.

After conferring with his delegate, PO Vantull established that when his ICO notified him to make a copy of his entries from November 28, 2004, PO Vantull realized that he did not make an entry of the incident. At this point PO Vantull rewrote his original memo book entries onto a new page on January 1, 2005. PO Vantull stated that he did not want to get in trouble for failure to record the incident and did not know that he was not allowed to make a duplicate entry into his memo book. PO Vantull stated that the copy he provided to his ICO was not his original entry from November 28, 2004. PO Vantull stated that had he primarily known that he was supposed to forward both pages to the CCRB, he would have complied. PO Vantull stated that he did not inform his ICO that he had two entries for the same day. PO Vantull was asked if he ever modified his original entries when he received the notification from his ICO and he stated that he entered "96x1" on his original entry. PO Vantull felt that that correction was insufficient and wrote a new page on January 1, 2005.

PO Salvatore Oliveri(Enclosure 8a-c)

Police Officer Salvatore Oliveri was interviewed at the CCRB on May 13, 2005. On November 28, 2005, PO Oliveri was assigned to school detail foot post 17 and 18 with PO Vantull and worked from 2:00PM to 9:35PM in uniform. His memo book entries indicated that at 1540 hrs he responded to a non-emergency call at § 87(2)(b) and § 87(2)(b).

PO Oliveri stated that on November 28, 2004, PO Walker and PO Dawes informed (10-85 via radio) him and PO Vantull to report to § 87(2)(b) and § 87(2)(b). PO Oliveri stated that when he arrived to the scene five minutes after the call, the officers had three to four males stopped § 87(2)(b). PO Oliveri explained that the males were lined up at the corner against the wall of the store and the males seemed to be upset because they were "rowdy and fidgeting". PO Oliveri added that the males were loud but could not recall if they cursed at the officers. PO Oliveri stated that he did not interact with any of the males that were stopped. Meanwhile, a black female arrived to the scene when the officers were almost done issuing the summonses. PO Oliveri stated that the female did not ask him for his name and he did not hear her ask the other officers for their name/shield. PO Oliveri stated that at some point he observed the female write something down while she was standing a couple of feet away from the officers but did not see what she recorded. PO Oliveri later stated that the female was 10 feet away from the officers when she was writing something down.

PO Oliveri explained that on the date of the incident, he was wearing his jacket and had his badge pinned to the outer most layer of his jacket, therefore making it clearly visible. PO Oliveri stated that he did not have a mourning band around his shield and did not recall if the other officers had it on. PO Oliveri does not regularly wear his mourning band and was not aware of any other officer wearing it around their shield. PO Oliveri stated that he did not see the female ask PO Vantull for his name or badge number and did not see if PO Vantull pointed to his badge at any point. PO Oliveri stated that he never heard PO Vantull ask the female, "On what planet do you feel you have the right to get my badge number?" PO Oliveri stated that when he and all of the officers departed from the location, the males dispersed as well. PO Oliveri stated that PO Walker and PO Dawes issued summonses to the males but did not recall if PO Vantull issued a summons also. PO Oliveri stated that he did not issue a summons and was not aware if any 250's were filled out. PO Oliveri later clarified that PO Rodriguez was at the scene as well, but does not recall if the female and PO Rodriguez interacted with the female and when he came to the scene.

PO James Dawes (Enclosure 11a-b)

Police Officer James Dawes was interviewed at the CCRB on May 24, 2005. On November 28, 2004, PO Dawes was working on foot with PO Walker and was in uniform. His memo book entry revealed that at 1610hrs a male was stopped § 87(2)(b) and a summons was issued.

PO Dawes stated that he and PO Walker asked a group of five males to disperse from § 87(2)(b) and since they did not comply, PO Dawes called additional foot post units to the location. PO Dawes stated that the male individuals refused to move from in front of a store located at the corner of § 87(2)(b). Shortly, PO Vantull and PO Oliveri arrived to the incident location and they proceeded to issue summonses to the males. PO Dawes could not recall if PO Jean Rodriguez was at the scene but stated that he “could have been there.” Approximately 2-3 minutes after the stop, a black female § 87(2)(b), approached PO Vantull and began to curse at him. She did not inquire about what was going on and said to PO Vantull, “You don’t know who you’re fucking with § 87(2)(b). Y’all always fucking with black people.” PO Dawes stated that PO Vantull was shocked that the woman cursed at him and did not respond to her. PO Dawes stated the female did not ask anyone what was going on and none of the officers interacted with her in his presence. PO Dawes stated that he issued a summons to one of the males and did not recall if any of the other officers issued summonses. PO Dawes explained that the males eventually became compliant.

PO Dawes stated that the female didn’t ask him or any other officer for their badge numbers and at no point did any of the officers interact with her. PO Dawes stated that he did notice the female with a piece of paper was unable to see what she wrote down. PO Dawes stated that he does not remember if PO Vantull pointed to his badge when she was in front of him. PO Dawes established that he was wearing his jacket with his badge placed at the left side and was not wearing his mourning band on the date of the incident because he only wears it when a death has occurred. PO Dawes established that his badge was displayed on the outer most layer of his jacket and does not recall if PO Vantull had his mourning band on or how PO Vantull was had his badge displayed.

PO Dawes stated that he did not hear PO Vantull specifically say, “On what planet do you feel that you have the right to get my badge number?” PO Dawes stated that he does not know why the female became involved in the situation because he did not see her have a conversation with any of the males who had been stopped.

Police Officer Lowez Walker(Enclosure 13a-b)

PO Walker was interviewed at the CCRB on June 3, 2005. On November 28, 2004 PO Walker worked from 1:05PM to 9:35PM. He was assigned to impact zone and was working alone, on foot and in uniform. PO Walker’s memo book entries indicated that at 1600hrs, three males were stopped in front of § 87(2)(b) and at 1620hrs summons# § 87(2)(b) was issued.

PO Walker stated that at approximately 4:00PM on November 28, 2004, he was called to the post where six males were stopped in front of § 87(2)(b). PO Walker stated that he does not recall why the males were stopped and who initially stopped them. PO Walker stated that PO Dawes, PO Oliveri, PO Vantull and PO Rodriguez were at the scene as well when a black female in a transit uniform, came up to the officers and immediately started to write something down. The female cursed out PO Vantull for an unknown reason. She approached the officers and said, “You don’t know who the fuck I am...” and does not recall what else she said. PO Walker stated that he did not hear the female ask him or the other officers for their names or badge numbers but he did see her write something down while she was standing approximately 31/2 feet away from the officers.

PO Walker recalled that he issued a summons but could not remember what it was issued for. PO Walker stated that the males were compliant and did not yell at anyone. PO Walker stated that he only interacted with the male he issued the summons to. PO Walker stated that his badge was displayed on the left side of his outer layer. PO Walker stated that he did not have his mourning band on and did not recall if any of the

other officers had theirs on. PO Walker stated that he does not recall if PO Vantull pointed to his badge when § 87(2)(b) was present. PO Walker stated that he does not recall if PO Vantull said “On what planet do you feel that you have the right to get my badge number?” and did not recall if PO Vantull ever interacted with her.

Police Officer Jean Rodriguez

PO Rodriguez failed to appear at the CCRB on May 27, 2005, June 13, 2005 and June 22, 2005. § 87(2)(g)

§ 87(2)(g)

Police Documents

71st Precinct Roll Call (Enclosure 17a-b)

Roll call indicated that PO Vantull, PO Walker, PO Oliveri, PO Dawes and PO Rodriguez were all assigned to foot posts during tour 3.

Summonses and Dispositions (Enclosure 15a-b)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

CCRB Histories

Officer (Enclosure 2a)

PO Vantull, in his first year on the force, has no substantiated allegations in his CCRB history.

§ 87(2)(b) (Enclosure 3a)

To date, § 87(2)(b) has not filed any prior CCRB complaints.

Conclusions and Recommendations

Undisputed Facts

It is not in dispute that on November 28, 2005 § 87(2)(b) and several other males were stopped and issued summonses § 87(2)(a) 160.50. It is also not in dispute that § 87(2)(b) arrived at the scene after her son notified her that he was issued a summons. It is also clear that PO Vantull, PO Oliveri, PO Dawes, PO Walker and PO Rodriguez were all at the incident location.

Credibility

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

PO Berkley Vantull

When PO Vantull was initially asked why he had two memo book copies for the same incident date, he could not recall why. Once PO Vantull conferred with his delegate, he then admitted what he had done. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g). PO Vantull did state that he pointed to his badge because he did not want to “further escalate the situation” with § 87(2)(b) § 87(2)(b), § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

PO James Dawes, PO Salvatore Oliveri and PO Lowez Walker

§ 87(2)(g). The officers stated that they did see § 87(2)(b) with a pen and paper but did not acknowledge what she wrote down. The officers also stated that they did not hear § 87(2)(b) ask PO Vantull for his name or shield number. § 87(2)(g)
§ 87(2)(g) Each officer did not know how PO Vantull had his badge displayed on the date of the incident and could not affirm if he was wearing his mourning band. § 87(2)(g)
§ 87(2)(g)

Allegation A: Police Officer Berkley Vantull refused to provide his shield number to § 87(2)(b)
§ 87(2)(b)

PO Vantull stated that he pointed to his badge and did not verbally provide his information to § 87(2)(b) when she requested that information from him. Patrol Guide Procedure 203-09 states that officers are to “Clearly and courteously state your rank, name, shield number and command or otherwise provide them, to anyone who requests you to do so.” Patrol Guide 203-09 also states that officers have to “allow the person ample time to note this information.” § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g) In PD v. Nalpoleoni (2001), an ALJ ruled, “A demand for a badge number necessitates an affirmative response.” § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)
§ 87(2)(g)

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Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

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